

## REMARKS

### Summary

Claims 9-28 were pending and all of the claims were rejected in the present Office action. Claims 10-11, 14-15 and 21 have been cancelled. Claims 9, 12, 17, 19, 22, 24 and 25 have been amended. No new matter has been added. As this paper is submitted in response to a final Office action, and the Applicants desire to bring this prosecution to a rapid conclusion, clarifying amendments have been made in view of the Examiner's comments, even though some of the rejections and comments are traversed herein.

### Claim Rejections

#### **35 U.S.C. § 112, second paragraph**

Claims 9-28 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Applicants respectfully traverse the rejection. However in an effort to bring this proceeding to a conclusion, further amendments have been made.

The Examiner states that “[i]t appears antecedence issues may also occur in regard to the axis/axes.” However, without such issues being explained in the rejection, there is no possibility of addressing the matter. To the extent that the present response does not place the application in condition for allowance, the Applicants respectfully request that the finality of the Office action be withdrawn and that a new Office action issue stating the rejection in explicit terms.

Claims 20 and 24 [sic, 22] were amended to overcome the antecedent basis rejections thereof. Claim 22 is amended for other reasons, so as to be consistent with other claim amendments.

The Applicants respectfully submit that, to the extent that the rejection is understood, the amendments overcome the rejections.

**35 U.S.C. § 103(a)**

Claims 9-12, 22-23, 26 and 28 were rejected 35 U.S.C. § 103(a) as being unpatentable over Gore (GB 2,286,887; "Gore") in view of Mohapatra (US 5,595,905; "Mohapatra"). The Applicants respectfully traverse the rejection on the basis that a *prima facie* case of obviousness has not been made out. Previously the Applicants have amended Claim 9 so as to respond to the USPTO position as expressed in the Response to Arguments section (page 5) of the Office action of October 23, 2008.

The Applicants respectfully traverse the "Response to Arguments" made in the present Office action (page 5). The Examiner asserts that "an axis of the examination aperture' is not defined relative to anything." The Applicants respectfully submit that the axis is defined with respect to the aperture, which is a clearly understood portion of the structure.

"Axis" is used in its dictionary sense (see, for example Merriam-Webster's Collegiate Dictionary 10<sup>th</sup> Edition), where the meaning is: 1a: a straight line about which a body or geometrical figure rotates or may be supposed to rotate, b: a straight line with respect to which a body or figure is symmetrical.

However Claim 9 has been amended so as to incorporate the subject matter of now cancelled claims, including Claim 15, so that "the load-bearing support arm is rotatable about an axis oriented vertical to the mounting surface of the computer tomography device."

Since the Examiner has already performed a search using a broader interpretation of the word "axis", the Applicant's respectfully submit that no further search is needed.

The Examiner posits another interpretation of the relationship of the mounting axis and the aperture axis based on turning FIG. 1 of Gore by 90 degrees: that is, placing the MRI on its side. So as to obviate any confusion, the preamble of Claim 9 has been amended so as to place the claimed device in a context with respect to the floor on which it must be disposed. The Applicants respectfully submit that the aspect of Claim 9 "the load-bearing support arm is rotatable about an axis oriented vertical to

the mounting surface of the computer tomography device" is not found in the references.

Moreover, placing the device of FIG. 1 of Gore on its side would render the apparatus inoperative, as an MRI machine as taught by Gore would be inoperative in that position. An inoperative combination cannot be used to make out a *prima facie* case of obviousness, and nothing in Mohapatra is cited to overcome this deficiency in the *prima facie* case. As such Claim 9 is not obvious and is allowable, as are all of the claims dependent thereon.

Claims 17-20, 24-25, and 27 were rejected 35 U.S.C. § 103(a) as being unpatentable over Gore and Mohapatra, as applied to Claims 9 and 22, and further in view of Seufert (US 2002/0112288; "Seufert"). The Office action does not apply Seufert to overcome any of the aspects of Gore and Mohapatra as applied to Claims 9 and 22, and as such, not all of the elements and limitations of the present claims are found in the combination of the references, and Claims 17-20, 24-25 and 27 are allowable.

### Conclusion

Claims 9, 12, 13, 16-20 and 22-27 are pending.

For at least the reasons set forth above, the Applicants respectfully submit that the pending claims are allowable and look forward to the early issuance of a Notice of Allowance.

The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,  


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